

**SUBSTITUTE PRE-APPEAL BRIEF REQUEST FOR
REVIEW**

Docket Number

CQ10191

Mail Stop AF
Commissioner for Patents
P.O. Box 1450 Alexandria, VA 22313-1450

Application Number

09/987,420

Filed

November 14, 2001

First Named Inventor

Livia POLANYI

Art Unit

2626

Examiner

Angela A. ARMSTRONG

MOUNTAIN VIEW OFFICE

23493

CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

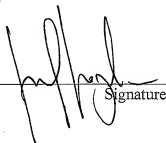
This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

☒ I am an attorney or agent of record.

Registration number 48,205



Signature

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Typed or printed name

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May 18, 2007

Date

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: CQ10191

Livia POLANYI, et al.

Appln. No.: 09/987,420

Group Art Unit: 2654

Confirmation No.: 7039

Examiner: Angela A. ARMSTRONG

Filed: November 14, 2001

For: DYNAMICALLY CHANGING THE LEVELS OF READING ASSISTANCE AND INSTRUCTION TO SUPPORT THE NEEDS OF DIFFERENT INDIVIDUALS (as amended)

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MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated September 21, 2006, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue. Fiedorowicz fails to disclose all of the claimed combinations of features recited in claims 1-5, 14-18 and 28-30.

While Fiedorowicz discloses determining an appropriate training stream, this training stream is based on either grade level (col. 4, line 9) or Cloze reading level assessment test, which judges the ability of a student to add *missing* words to a paragraph. However, this test for the training stream is only performed prior to the start of the testing, and is not disclosed to be performed more than once. In other words, there is no disclosure that a user could switch to another training stream dynamically.

Fiedorowicz also discloses at col. 5, lines 15-67 that task-analytic and process-oriented approaches may be used for student training. Although the Examiner states that this passage corresponds to the "at least one comprehension aid operable to help the user to comprehend the

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displayed words” as recited in claim 1, applicant respectfully disagrees. For example the cited passage of Fiedorowicz is directed to the manner in which information is displayed to the user, but does not help the user to comprehend *the displayed words*. While Fiedorowicz is purportedly directed to the general teaching of reading, this is not done by helping the user comprehend the displayed words, but is instead directed to the sequence in which those words are to be displayed. If a word is displayed to the user in Fiedorowicz, there is no disclosed aid that helps the user to comprehend that word. Instead, Fiedorowicz relies on the sequence and process in which the display is made. This is a more general level of detail that is directed to grammatical structure, but it is not directed to helping a user *comprehend displayed words*.

Further, the Examiner asserts that col. 4, line 5 – col. 5, line 14 of Fiedorowicz discloses “determining a second word recognition level based on the determined word recognition errors” as recited in claim 1. Applicant respectfully disagrees. As a preliminary matter, Fiedorowicz does not disclose determining word recognition errors prior to this passage of Fiedorowicz. Thus, word recognition errors could not be the basis for any second word recognition level. Further, the passage identified by the Examiner does not disclose or suggest a *second word recognition level*, as recited in claim 1. The only level assessment in Fiedorowicz is made prior to the testing step, and thus, word recognition errors are not incorporated into the level determination of Fiedorowicz.

The Examiner responded to applicant’s previous arguments at page 9 of the Office Action by simply restating the earlier position as stated in the rejection itself. However, the Examiner’s response does not clarify the relation between above-discussed claim language and Fiedorowicz. While the Examiner asserts that mastering an exercise requires determination of word level errors, this is only asserted by the Examiner, but is not disclosed in the Fiedorowicz reference itself. Further, applicant respectfully disagrees that an accuracy determination requires

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necessarily “determining word recognition errors”. To the contrary, there is no specific disclosure in Fiedorowicz as to *how* teaching is performed.

Instead of providing “a comprehension aid that is operable to help the user comprehend the displayed words” as required by claim 1, Fiedorowicz instead simply puts the user “on hold”, but does not do anything to help that user comprehend the displayed words. In other words, it is up to the user to learn on their own within the framework of Fiedorowicz, but if the user fails to learn within that framework, the user is simply kicked out of the system and a supervisor is alerted, see col. 6, lines 9-21. Fiedorowicz is otherwise silent as to how it assists in comprehending displayed words, but is more of a drilling and testing tool that is not tutorial in nature. Therefore, Fiedorowicz fails to disclose at least providing the user with at least one comprehension aid operable to help the user to comprehend the displayed words, determining word recognition errors based on user comprehension of the displayed words using the comprehension aid, and determining a second word recognition level of the user based on the determined word recognition errors, as recited in independent claim 1.

Turning to independent claim 14, Fiedorowicz fails to disclose any of the circuitry recited therein. For example, Fiedorowicz fails to disclose “a comprehension aid circuit” and “a word recognition level adjusting circuit”. The Examiner has not examined claim 14 with respect to Fiedorowicz, but has simply applied the analysis of claim 1. However, claim 14 is different from claim 1, in that claim 14 recites a structure having structural elements, including the above-mentioned circuits. Additionally, Examiner has not identified any comprehension aid display circuit for displaying comprehension aids to the user *based on the determined user recognition errors* as recited in claim 14. The Examiner has not identified any circuitry present in Fiedorowicz, and further, in his discussion of claim 1, did not identify how the comprehension aid is provided *based on the determined user recognition errors* as recited in claim 14. Similarly,

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the Examiner has not identified any circuit structure that *adjusts the word recognition level* of the user *based on the determined recognition errors*, as recited in claim 14. As explained above, Fiedorowicz only makes an initial determination based on grade level or the Cloze reading level assessment test, but does not perform a separate second assessment based on word recognition errors made by the user, as required by claims 1 and 14. Therefore, Fiedorowicz fails to disclose at least a comprehension aid display circuit for displaying comprehension aids to the user based on the determined user recognition errors, and a word recognition level adjusting circuit adjusting the word recognition level of the user based on the determined recognition user errors, as recited in claim 14. Claims 2-5 and 15-18 are allowable at least by virtue of their dependency on claims 1 and 14.

With respect to independent claims 28, Fiedorowicz fails to disclose at least instructions for providing at least one comprehension aid to the user, the provided comprehension aid operable to help the user to comprehend the displayed words, instructions for determining word recognition errors based on user comprehension of a word using the at least one comprehension aid provided to the user, and instructions for determining a second word recognition level of a user, the first word recognition level being dynamically adjusted based on the determined word recognition errors, as recited in claim 28. Fiedorowicz does not provide sufficient disclosure with respect to these claim elements for at least the reasons discussed above with respect to similar claim language recited in claims 1 and 14.

Further, Fiedorowicz fails to disclose that the first word recognition level is *dynamically adjusted based on the determined word recognition errors*, as recited in claim 28. Fiedorowicz makes absolutely no disclosure about further modification of the first word recognition level, or using word recognition errors as the basis for a word recognition level. Instead, Fiedorowicz only

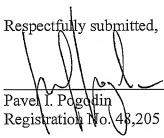
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refers to grade level or the Cloze test of missing words (i.e., not errors in recognizing the displayed words themselves).

Turning to claim 29, Fiedorowicz fails to disclose analyzing the text *based on a theory of discourse analysis*, or *displaying a grammatically tunable text summary* based on the determined reading level, as recited in claim 29. The Examiner has not identified where these claimed features are disclosed in Fiedorowicz. Further, Fiedorowicz fails to disclose instructions for providing at least one comprehension aid to the user, the provided comprehension aid operable to help the user to comprehend the displayed text, instructions for determining user comprehension of the text using the at least one comprehension aid provided to the user, and instructions for determining a further user reading levels based on the user comprehension and reading level, as recited in claim 29, for reasons similar to those discussed above with respect to independent claims 1 and 14.

Finally, claims 6-12, 19-25, 27, 29, 30 and 31 are not obvious at least due to deficiencies of Fiedorowicz, which were enumerated above.

Respectfully submitted,



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